

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	03/01/2020
Planning Development Manager authorisation:	TF	20/01/2020
Admin checks / despatch completed	CC	21/02/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	KAE	21/02/2020

Application: 19/01790/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Chisbon Solar Farm Limited

Address: Land North of Frowick Lane St Osyth

Development: Variation of condition 12 of planning permission 16/01631/FUL to extend the period of planning permission.

1. Town / Parish Council

St Osyth Parish Council No objections.

2. Consultation Responses

Tree & Landscape Officer The proposed extension of the period of time that the Solar Farm remains operational will not alter its impact on the character or appearance of the local landscape charter. Therefore no comments to make on the application.

3. Planning History

13/00360/FUL	Installation of a 13MWp solar park and associated infrastructure.	Approved	26.07.2013
13/01025/DISCON	Discharge of Conditions of planning permission 13/00360/FUL - 08 - Landscape Management Plan, 14 - Traffic Management Plan and 15 - Ecological Management Scheme.	Approved	01.10.2013
13/01196/DISCON	Discharge of Conditions of planning permission 13/00360/FUL - 06 - Construction Method Statement, 07 - Decommissioning Method Statement, 10 - Access Culvert Details, 13 - Vehicular turning facility details. - FOR INFORMATION ONLY	Approved	03.12.2013
14/00513/FUL	Variation of Condition 2 of 13/00360/FUL to vary approved plans, to reduce from 10 to 4 transformer and inverter cabins, change shape and size of cabins, change of PV module layout and	Approved	17.07.2014

	include minor changes in internal road route.		
14/00520/DISCON	Discharge of condition 3 (height, design and separation of solar panels), 4 (security fencing and security measures), 16 (archaeological work) and 21 (ancillary equipment paint details) of planning permission 13/00360/FUL.	Approved	28.04.2014
14/01066/FUL	Variation of details approved under conditions 2 (approved plans), 8 (Landscape Management Plan), 9 (vehicular access), 13 (turning heads) & 14 (Traffic Management Plan) of planning permission 14/00513/FUL.	Approved	19.09.2014
15/00881/FUL	Variation of conditions 2 & 8 of planning permission 14/01066/FUL to list the as-built plans to reflect the final as built condition of the site.	Approved	03.12.2015
15/01255/DISCON	Discharge of condition 16 (archaeological monitoring and recording) of planning permission 14/01066/FUL.	Approved	09.10.2015
16/01631/FUL	Variation of condition 12 of planning permission 15/00881/FUL to extend the period of planning permission.	Approved	13.01.2017
18/02119/TELLIC	Replace transformers T1 and T2 with associated circuit breaker and switchgear.	Determination	09.01.2019
19/01790/FUL	Variation of condition 12 of planning permission 16/01631/FUL to extend the period of planning permission.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN1 Landscape Character

EN4 Protection of the Best and Most Versatile Agricultural Land

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

EN11C Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites

EN13A Renewable Energy

TR2 Travel Plans

EN23 Development Within the Proximity of a Listed Building

EN29 Archaeology

TR1A Development Affecting Highways

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL7 Archaeology

PPL8 Conservation Areas

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is a solar park which was originally granted planning permission under application no. 13/00360/FUL. It comprises an area of approx. 18.44 hectares set within gently undulating open countryside to the north of Frowick Lane.

The site is enclosed partly to the north by Milton Wood. The site boundary to the south is marked by Frowick Lane, whilst the site boundary to the east is marked by an un-named watercourse (ditch).

Proposal

This application seeks planning permission to vary Condition No. 12 of planning permission 16/01631/FUL.

Planning permission 16/01631/FUL granted planning permission on 13.01.2017 for the variation of condition 12 planning permission 15/00881/FUL to extend the time limit of the development up until 2045.

Condition 12 of planning permission 16/01631/FUL states that 'the planning permission hereby granted is for until 5th March 2045, after this date the use shall cease and the solar panels and all ancillary equipment shall be removed from the site in accordance with the Decommissioning Method Statement approved pursuant to Condition 2'. The reason for this condition was 'to ensure that the landscape impact of the development exists only for the lifetime of the development'.

It is proposed to vary condition no. 12 to extend the temporary planning permission term up to the 5th March 2055 (i.e. an additional 10 years).

This application seeks to amend condition 12 to the following:

The planning permission hereby granted is for until 5th March 2055. After this date, the use shall cease, and within a period of six months from cessation of operation, all ancillary equipment shall be removed from the site in accordance with the Decommissioning Method Statement approved pursuant to condition 2.

Appraisal

The solar farm has been installed; the application seeks increase the time that it is installed from March 2045 to March 2055. The application will not result in any alteration that would increase the impact on the surrounding area. It would extend any impact that it has for a longer period. The impact was considered as part of the granting of the original application, where it was concluded within the report to Planning Committee that although Officers found harm to the Countryside, the localised extent of harm (mainly along the southern boundary of the site) does not outweigh the national benefits derived from providing renewable energy'. It is considered that a further 10 years of renewable energy generation will be of significant benefit.

The retention of the solar farm for a further 10 years will not result in any significant increase during this time period. The majority of the traffic created by the solar farm is at the construction and decommissioning stage; the construction has already taken place and this application will mean that the decommissioning stage will take place at a later date than originally planned. But there is nothing to suggest that the impact of the decommissioning stage would be greater if it occurs at a later stage.

Overall, it is considered that the proposed changes would not have a significant greater harm on the character and appearance of the surrounding area, heritage assets, ecology, residential amenity or highway safety, than the scheme previously approved.

The proposal accords with Government guidance in Greater Flexibility for Planning permission 2009 and for the above reasons is considered to be acceptable.

Government Guidance states where an application under s73 is granted, the effect is the issue of a fresh grant of permission, a decision notice describing the new permission should be issued, setting out all the conditions pertaining to it. As a result, a new decision notice is issued for the entire development. The new decision notice will not be the same as the one previously issued as the development has been completed and details to discharge some of the conditions have already been submitted and approved.

Other Considerations

St Osyth Parish Council has no objections to the application. No further letters of representation have been received.

Conclusion

It is considered that for the above reasons the proposal meets the criteria set out in the National Planning Policy Framework and relevant policies of the National Planning Policy Framework, the Tendring District Local Plan and the Tendring District Local Plan Proposed Submission Draft. Accordingly the application is recommended for approval.

6. Recommendation

Approval

7. Conditions

- 1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fencing or means of enclosure shall be erected other than that which has been approved, without first obtaining planning permission.

Reason - In the interests of the amenity of the area.

- 2 The decommissioning phase shall be carried out in accordance with the Decommissioning Method Statement approved in writing by the Local Planning Authority under reference 13/01196/DISCON on 5 November 2013, unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of the amenity of the area.

- 3 The landscaping scheme to be used for the site shall be the Landscape Management Plan dated 18th May 2015 received under 15/00881/FUL, unless otherwise agreed, in writing, a later date with the Local Planning Authority. The landscaping scheme shall be implemented in accordance with the approved details within the first planting season following the commencement of the development hereby permitted, and shall be maintained during the lifetime of the development, with the replacement of any trees or plants which die, are removed or become seriously damaged or diseased, in the first available planting season with others of similar size and species.

Reason - To ensure the provision of amenity afforded by appropriate landscape design.

- 4 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 15m of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 5 Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 12m. from the nearside edge of carriageway of the existing road.

Reason - To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

- 6 The vehicular turning facilities shall be constructed in precise accordance with drawing no. EX8/20E, unless otherwise agreed, in writing, at a later date with the Local Planning Authority. The turning facilities shall be maintained free from obstruction at all times for that sole purpose.

Reason - To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

- 7 The Traffic Management Plan approved in writing by the Local Planning Authority under reference 13/01025/DISCON on 1 October 2013, and amended by details received under 14/01066/FUL, shall be adhered to by all ground works, construction and decommissioning traffic throughout the pre-construction, construction and decommissioning phases, unless otherwise agreed, in writing, at a later date with the Local Planning Authority.

Reason - To ensure that the adjoining highway is not obstructed by construction activity, in the interests of highway safety.

- 8 The ecological management scheme and mitigation plan approved in writing by the Local Planning Authority under reference 13/01025/DISCON on 1 October 2013, shall be undertaken as approved, unless otherwise agreed, in writing, at a later date with the Local Planning Authority. The solar farm hereby permitted shall be operated at all times in accordance with the approved scheme.

Reason - To preserve and enhance the biodiversity of the site.

- 9 No additional external artificial lighting shall be installed, other than that approved in accordance with security measures.

Reason - In the interests of the amenity of the area.

- 10 The Flood Risk Management and surface water drainage measures shall be carried out in accordance with the details set out in the Flood Risk Assessment by Evans Rivers and Coastal Ltd dated November 2012 submitted under 13/00360/FUL. The solar farm hereby permitted shall be operated at all times in accordance with the approved scheme.

Reason - In the interest of flood risk.

- 11 Unless otherwise approved in writing in advance by the Local Planning Authority no construction or decommissioning works shall take place except between the following hours: 0800 to 1800 Monday to Friday, and 0800 to 1300 Saturday. No construction or decommissioning works shall take place at any time on Sunday or a Bank Holiday without prior written approval from the Local Planning Authority.

Reason - In the interests of the amenity of the area.

- 12 The planning permission hereby granted is for until 5th March 2055. After this date, the use shall cease, and within a period of six months from cessation of operation, all ancillary equipment shall be removed from the site in accordance with the Decommissioning Method Statement approved pursuant to condition 2.

Reason - To ensure that the landscape impact of the development exists only for the lifetime of the project.

- 13 No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels and related equipment, and shall be fully implemented within 12 months of the expiry of this permission.

Reason - In the interests of the amenity of the area.

- 14 If any of the individual solar panel(s) ceases to export electricity to the grid for a continuous period of 12 months then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months from the end of the 12 month period for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within 6 months of that written approval being given.

Reason - In order to ensure that the solar park fulfils its required purpose or is removed from the land in the interests of rural visual amenity.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	<input checked="" type="radio"/> NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	<input checked="" type="radio"/> NO